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The Gazette of Puducherry

PART - II

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GOVERNMENT OF PUDUCHERRY
DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT
No. 15163/DRDM/C3/BUDS/2020.

Puducherry, dated 18th April 2023.

NOTIFICATION

In exercise of the powers conferred under section 38 of the Banning of Unregulated Deposit Schemes Act, 2019 (Central Act 21 of 2019), the Lieutenant-Governor, Puducherry, hereby makes the following rules, namely. –

1. **Short title, extent and commencement.**—(1) These rules may be called the “Puducherry Banning of Unregulated Deposit Schemes Rules, 2023”.

(2) They shall extend to the whole of Union territory of Puducherry.

(3) They shall come into force from the date of their publication in the Official Gazette.

2. **Definitions.**—(1) In these rules, unless the context otherwise requires,—

(a) "Act" means, the Banning of Unregulated Deposit Schemes Act, 2019 (21 of 2019);

(b) "Application" means, an application filed by the Competent Authority under section 14 of the Act;

(c) "Authority" means, the Authority designated under section 9 of the Act;

(d) "Competent Authority" mean, an Authority appointed by the Government under section 7 of the Act;

(e) "Complaint" means, a representation or allegation made in writing or through electronic means containing information on the promotion or operation of an Unregulated Deposit Scheme or any advertisement, inducing a person to invest in or become a member of the Unregulated Deposit Scheme;

(f) "Designated Court" mean, a Designated Court constituted by the Government under section 8 of the Act;

(g) "Form" means, Forms appended to these rules;

(h) "Government" means, the Administrator appointed by the President under Article 239 of the Constitution;

(i) "Officer to assist the Competent Authority" mean, an officer appointed by the Government under sub-section (2) of section 7 of the Act;

(j) "*Suo moto* cognizance" mean, an action taken by a Government agency, Court or other State or Central authority on its own apprehension or official acts of its own initiative.

(2) All other words and expressions used in these rules, but, not defined shall have the meanings assigned to them in the Act.

3. Powers and duties of the Competent Authority under sub-section (3) of section 7.— (1) If, the Competent Authority or an Officer appointed to assist the Competent Authority is satisfied that the facts of the case necessitate identification of the properties or assets acquired either in the name of the deposit taker or in the name of any other person on behalf of the deposit taker, the Competent Authority or the Officer appointed to assist the Competent Authority, may procure from Police Authorities, details or records collected by them under provisions of sub-section (1) of section 31 or any other authority as deemed fit or from public through a public notification seeking the details of properties or assets.

(2) Where the information is sought from the public through the public notification specified in sub-rule (1) of this rule, an advertisement may be released in two prominent local newspapers within a period of fifteen days of receipt of report from the Police Authorities informing that a *prima facie* case exists.

(3) If, the Competent Authority, after making attachment of the property by collecting additional information, is again of the opinion that some additional properties of the deposit taker require to be attached, he may do so in accordance with section 7 of the Act.

4. Powers vested while conducting investigation or inquiry.— (1) The Competent Authority or the Officer appointed to assist the Competent Authority shall have power to examine any person who in his opinion may give any information about the financial entity/deposit taker.

(2) Unless and otherwise felt essential, to conduct investigation or inquiry under sub-section (4) of section 7, while conducting investigation or inquiry, the following notices may be issued by the Competent Authority, or the officer appointed to assist the Competent Authority namely.—

- (i) notice for initiation of action in Form A;
- (ii) notice for additional information, if any, required in Form B;
- (iii) final notice for personal attendance of deposit taker or other persons and witnesses in Form C.

(3) The Competent Authority or the Officer appointed to assist the Competent Authority shall record the proceedings made under sub-section (4) of section 7 and shall follow due process of law diligently.

(4) Apart from the powers conferred on the Competent Authority under sub-section (4) of section 7 of the Act, the Competent Authority or the Officer appointed to assist the Competent Authority shall have the powers of a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) while conducting investigation or inquiry in respect of the following matters, namely:-

(a) issue commission for local inspection;

(b) to pass, during the pendency of any complaint, any interim order, as may appear to the Competent Authority to be just and fair to meet the ends of justice;

(c) to dismiss a complaint for default or being frivolous.

(5) The Competent Authority or the Officer appointed to assist the Competent Authority shall issue summons for the appearance of any person or for the production of any documents.

5. Manner of provisional attachment and administration of provisionally attached property.— (1) Where, the Competent Authority have reason to believe that any deposit taker is soliciting deposits in contravention of section 3 of the Act, the Competent Authority shall pass an order of the provisional attachment of the deposits held by the deposit taker and the money or other property acquired either in the name of the deposit taker or in the name of any other person on behalf of the deposit taker under sub-section (3) of section 7 of the Act into that effect mentioning the details of the property to be attached.

(2) The order of provisional attachment shall contain to the extent possible, the following:

(i) details of the complaint;

(ii) details of the deposit taker or financial entity;

(iii) inquiry report from the Police;

(iv) report received from regulator, if any;

(v) complaints received from the public;

(vi) details of the proceedings, reasons for attaching such properties, effective date of attachment;

(vii) copies of the notices issued or served and delivery proof, if any;

(viii) summary of the findings;

(ix) details of property attached, Bank account numbers, amount attached, securities including shares and bonds and attached movable property, approximate values of such property, and in case of immovable property the extent of land, survey numbers and boundaries of such property and name of the title holder of such property; and

(x) conclusion;

(3) A copy of the order of provisional attachment shall be served to the owner of the property, or any person who claims to be in possession of the property or any other person who has an interest in the said property.

(4) The Officer appointed to assist the Competent Authority, may seek assistance of Police, other officials of the Government, Central Government, financial institutions, Society or Body for the purpose of taking possession of the property so attached.

(5) The order of provisional attachment shall be published in a leading newspapers (both in vernacular and in English) having wide circulation in the area or jurisdiction in which the deposit taker is located.

(6) The Competent Authority or the Officer appointed to assist the Competent Authority shall send a copy of the order of provisional attachment to the officials concerned of Revenue, Tax, or any other officials required in this regard to place encumbrance on the said movable or immovable property, which shall be removed only on the written instruction from the Competent Authority to that effect.

(7) Where, the Competent Authority or the Officer appointed to assist the Competent Authority is not able to serve the order of provisional attachment to a person specified in sub-rule (3), then such person shall be deemed to be served the order by the publication of the order in the manner provided under sub-rule (5).

(8) The Competent Authority or the Officer appointed to assist the Competent Authority shall take possession of the immovable property by affixing the order of provisional attachment at a conspicuous place of such immovable property, with local inhabitants as witnesses.

(9) Where, the property to be attached is a moveable property, the Competent Authority or the Officer appointed to assist the Competent Authority shall take actual physical possession of such property and retain it in his custody or the custody of any other Officer appointed to assist him.

(10) The Competent Authority or the Officer appointed to assist the Competent Authority shall maintain a record of the property provisionally attached which shall include details of any expenditure incurred or any costs of management of the property and of any income received from the property.

(11) The Competent Authority or the Officer appointed to assist the Competent Authority shall assess the assets and the liabilities of the deposit taker and prepare a complete record of depositors from whom the deposit taker has collected deposits pursuant to an Unregulated Deposit Scheme.

(12) The Competent Authority or the Officer appointed to assist the Competent Authority may appoint a valuer for the purposes of assessing the assets and liabilities of the deposit taker under sub-rule (11).

(13) Where, any property of which possession has been taken is of a perishable nature, the Competent Authority or the Officer appointed to assist the Competent Authority may sell the same keeping in mind the best interest of the depositors, with an intimation/approval of the Designated Court.

(14) The details and proceeds of the sale under sub-rule (13) shall be entered separately by the Competent Authority or the Officer appointed to assist the Competent Authority and maintained in the record as specified in sub-rule (10).

(15) A separate Bank account may be opened in the name of the Competent Authority to collect the income received from the attached properties and a separate record shall be maintained.

6. Impounding and retention of records.—(1) The person from whose custody records are impounded under sub-section (8) of section 7 of the Act may make copies thereof, or take extracts therefrom, in the presence of an officer authorised by the Competent Authority, at such place and time as the Competent Authority may appoint in this behalf.

(2) The officer appointed under sub-section (2) of section 7 shall retain such records in his custody without taking approval from the Competent Authority for a period up to three months, and if, the records are necessary to be retained beyond the said period, approval of the Competent Authority shall be required.

(3) If, the person from whose custody records are impounded objects for any reason to the records being impounded, he may make an application to the Competent Authority stating therein the reasons for such objection and requesting for the return of the records, and the Competent Authority may, after giving the applicant an opportunity of being heard, pass such orders as he thinks fit.

(4) The officer shall ensure the safe custody of the records impounded and retained in his custody.

7. Powers relating to absconding persons.—Where, the Competent Authority or the Officers appointed to assist the Competent Authority is satisfied or has reasons to believe that a person in respect of whom action is contemplated under the Act has absconded or is concealing himself, the Competent Authority or the officers appointed to assist the Competent Authority shall make a report in writing to the Designated Court for further course of action.

8. Power to seize properties.—Where, the officers appointed to assist the Competent Authority or Competent Authority is satisfied or has reason to believe that any property which is liable to be attached under the Act is likely to be concealed, transferred, dealt or encumbered in any manner which will result in disposal of such property thereby defeating the purpose of the Act, he may direct the jurisdictional Executive Magistrate to seize such property with the assistance of the police, or where it is not practicable to seize such property make an order to freeze such property and it shall not be transferred or otherwise disposed of or dealt with, except with the prior permission of the Designated Court.

9. Power to appoint legal practitioner and others.—The Competent Authority or an Officer appointed to assist the Competent Authority shall be entitled to use the services of the Directorate of Prosecution, legal practitioners or chartered accountants or any other persons whose services are necessary for possession and realization of the assets. The services of the Special Public Prosecutor appointed to deal cases in respect of Non-Banking Financial Establishments (NBFE) can also be utilized in conducting the cases in the Designated Court.

10. Power of Government to empanel agencies for forensic or digital audit, valuation or sale of assets.—(1) The Government shall empanel and notify the list of,—

(a) agencies for valuation of assets and for assisting in selling of assets to prospective buyers; and

(b) forensic auditors and digital auditors for audit of money trail.

(2) The Competent Authority shall utilize the services of such agencies and auditors for valuation of assets, for selling of assets and for forensic and digital audit of money trail.

(3) The Competent Authority may also utilize the services of Forensic Auditors or Digital auditors empanelled by the Indian Banks' Association for Audit for Money trail till the State empanels such agencies, wherever felt required.

11. Application for confirmation of provisional attachment.—The Competent Authority shall file an application alongwith necessary evidences, before the Designated Court for making the provisional attachment absolute, containing the following particulars, namely:—

(a) a complete list of the property, money or deposits attached;

(b) in case of immovable property, the name or names and particulars of the owner of the property, any person who claims to be in possession of the property, and any other person who has an interest in the said property;

(c) the record of the provisionally attached property specified in sub-rule (10) of rule 5 and the valuation report, if any, specified in sub-rule (12) of rule 5;

(d) a list of the depositors from whom the deposit taker has accepted or collected deposits; and

(e) a list of dues owed to depositors including amounts that may be realised from sale of any attached property of the deposit taker.

(f) details of diversion of funds to other connected entities, if any.

(g) auditor report or financial statements, *etc.*

(h) encumbrances on the properties attached.

12. Valuation reports to be obtained while releasing properties attached.—The Designated Court while according permission to deposit the fair value of the property *in lieu of* the attachment under sub-section (1) of section 17 may obtain valuation reports from at least two empanelled valuers while releasing properties.

13. Information to Central Database.—(1) The Competent Authority shall provide to the authority designated by the Central Government, information in its possession relating to deposit takers in the Union territory of Puducherry, which shall include the following, namely:—

(i) list of deposit takers operating in the Union territory of Puducherry, the extent and areas of their operation;

(ii) any action taken under any law for the time being in force against any deposit taker for collection of deposits; and

(iii) updates regarding proceedings for restitution of depositors under Chapter V of the Act.

14. Form and manner of intimation.—(1) Every deposit taker commencing business shall submit an intimation in Form-I Annexed to these rules to the Competent Authority within a period of thirty days from the commencement of the business.

(2) In case of any change in any particulars submitted to the said Authority, the deposit taker shall intimate the Authority of such change within a period of thirty days from the date of the change.

FORM – I

*(See rule 14)***INTIMATION TO BE SUBMITTED TO THE AUTHORITY**

1. Name of deposit taker :
2. Registered address of the deposit taker :
3. Address of branches of the deposit taker (if any) :
4. Unique Identification No. of Registration / Incorporation under applicable law :
5. Authority to carry on deposit taking :
6. Name and address of persons responsible for the management of the deposit taker (CEO and Directors/ Partners, Proprietors/Board) :
7. PAN of the deposit taker :

I solemnly affirm to the best of my knowledge and belief that the information given in this Form is correct, and that nothing material has been concealed thereon.

Date :

Place :

Authorised Signatory

FORM – A
(See rule 4)

NOTICE FOR INITIATION OF ACTION

To

.....
.....

Sir/Madam,

Sub. : M/s.

Based on the information or reports received, it is *prima facie* apparent that the subject financial entity or deposit taker is involved in the Act which are cognizable under the provisions of section 3 of the Act.

The Competent Authority or the Officers appointed to assist the Competent Authority are under sub-sections (3) and (4) of the section 7 of the Act have the same power as vested in a Civil Court under the Code of Civil Procedure, 1908 while conducting investigation or inquiry in respect of the unauthorized deposit schemes or defaults under the deposit schemes in contravention of section 3 or 4. In exercise of the powers under the Act the following is ordered:

In connection with the subject, you are required to submit the following:

- (a) Details of financial entity, registration of the entity, permissions to accept deposits from regulators if any, including Unique Identification Number or Registration and PAN.
- (b) Authorisation of such regulators, if any.
- (c) Details of the Promoters, Managing Directors, Directors, Partners, Chartered Accountants, Management persons, Shareholders and other members of the financial entity/deposit taker, if any, including Unique Identification Number or Registration and PAN.
- (d) Latest audited Balance Sheet and Profit and Loss Accounts filed.

- (e) Details of the Regulator and the copy of registration certificates, permissions to undertake the activity of deposit taking.
- (f) Produce full details of the Scheme of Deposits under which deposits are being collected from public.
- (g) List of the Depositors alongwith Deposit accepted, Rate of Interest, Maturity date, terms of repayment of interest and principle, any other promises or assurances or commissions payable, *etc.*
- (h) Details of defaults, if any, in the repayment of Deposit or any specified service promised against such deposit along with date of default.
- (i) Total amount in default and number of depositors affected, if any.
- (j) Reasons for default, if any.
- (k) Steps taken or proposed to repay the amount in default.
- (l) Details of the Bank accounts of the financial entity with latest balance in the accounts.
- (m) Property both moveable/immovable believed to be acquired by the defaulters/deposit taker in his name or other persons on his behalf including family members.

You are hereby required to submit the full details listed above and duly attested, to my office on at either in person or through representative duly authorized in writing in this behalf or produce or cause to be produced at the said time any documents, accounts and any other evidence you may rely in support of the activity or the acts in the matter.

In case you fail to comply with the orders of the undersigned, it will be deemed that you have nothing to say in the matter and action under the appropriate provisions of the Act will be initiated. Failure to be present at the hearing granted, or failure to present evidence can result in a best Judgment assessment or an *ex parte* order.

Note : *Strike whichever is not applicable.

Date :

Yours faithfully,

FORM – B
(See rule 4)

NOTICE FOR ADDITIONAL INFORMATION

To

.....
.....

Sir/Madam,

Sub. : M/s.

Ref. : Notice in Form-A, dated

Based on the information or reports received, it is *prima facie* apparent that the subject financial entity or deposit taker is involved in the Act which are cognizable under the provisions of section 3 of the Act.

The Competent Authority or the Officers appointed to assist the Competent Authority under sub-sections (3) and (4) of section 7 of the Act have the same power as vested in a Civil Court under the Code of Civil Procedure, 1908 while conducting investigation or inquiry in respect of the unauthorized deposit schemes or defaults under the deposit schemes under section 3 of the Act. In exercise of the powers under the Act, the following is ordered:

(A) certain further details or clarifications or additional information listed here below are required in connection with the Deposit Scheme* or Chit Funds Scheme* or Default in repayment* of Deposit or any specified service promised against such deposits on which I would call for additional information, under the deposit scheme/s by the financial entity to be furnished immediately.

(i)

(ii)

(iii)

(iv)

You are hereby required to attend my office on
at either in person or through representative duly
authorized in writing in this behalf or produce or cause to be produced
at the said time any documents, accounts and any other evidence you
may rely in support of the activity or the acts in the matter.

(B) In case you fail to comply with the orders of the
undersigned, it will be deemed that you have nothing to say in the matter
and action under the appropriate provisions of the Act will be initiated.
Failure to be present at the hearing granted, or failure to present
evidence can result in a best judgment assessment or an *ex parte* order.

Note : *Strike whichever is not applicable.

Date :

Yours faithfully,

FORM – C

(See rule 4)

FINAL NOTICE

To

.....
.....

Sir/Madam,

Sub. : M/s.

Ref. : Notice in Form-A, dated

Notice in Form-B, dated

Based on the information or reports received it is *prima facie*
apparent that the subject financial entity or deposit taker is involved in
the Act which are cognizable under the provisions of section 3 of the
Act.

The Competent Authority or the Officers appointed to assist the
Competent Authority are under sub-sections (3) and (4) of section 7 of
the Act have the same power as vested in a Civil Court under the Code
of Civil Procedure, 1908 while conducting investigation or inquiry in

respect of the unauthorized deposit schemes or defaults under the deposit schemes under section 3 of the Act. In exercise of the powers under the Act, the following is ordered:

(A) As per Notice in Form A calling details and documents No., dated you were asked to submit the details and documents but you have failed to submit the details and document called for.

and / or

(B) As per Notice in Form B you are asked to furnish certain additional documents or details and also to attend my office on at either in person or through a representative duly authorized in writing on his/her behalf or produce or cause to be produced at the said time any documents, accounts and any other evidence you may rely in support of the activity or the acts in the matter, but, you have failed to appear before me along with the details and document led for.

(C) In view of not complying with the orders of the undersigned, a final opportunity is given to you to submit the details and document called for and/or appear before me along with the details and documents called for on at failing which it will be deemed that you have nothing to say in the matter and action under the appropriate provisions of the Act will be initiated. Failure to be present at the hearing granted, or failure to present evidence can result in a best judgment assessment or an *ex parte* order.

Note : *Strike whichever is not applicable.

Date :

Yours faithfully,

(By order of the Lieutenant-Governor)

E. VALLAVAN, I.A.S.,
Secretary to Government (Revenue).